

**AMENDMENTS TO THE DRAWINGS**

Please amend the drawings as follows:

Please replace drawing sheet 1/3 with the attached replacement drawing sheet 1/3.

Reference character  $\overline{Z}_{ac}$  has been amended to  $\overline{Z}_{acc}$  in figures 1 and 2.

**REMARKS/ARGUMENTS**

Applicant would like to thank the Examiner for the careful consideration given the present application and for granting a personal interview in this case.

A personal interview occurred on January 3, 2008. The participants were Examiner Joseph Saunders and Attorney Brad Spencer. Proposed amendments to claim 1 and the subject matter of new claim 12 were discussed during the interview. The cited Hohmann and Harris references were also discussed. The Examiner indicated that the subject matter of claim 12 was distinguishable over Hohmann and Harris. No agreement was reached with respect to claim 1.

The outstanding Office action requires an amended title of the invention. The title has been amended accordingly. The Office action further requires an amended specification to provide consistency between the use of reference characters  $\overline{Z}_{acc}$  and  $\overline{Z}_{ac}$ . The specification and drawing sheet 1/3 have been amended to recite reference character  $\overline{Z}_{acc}$  and not  $\overline{Z}_{ac}$ .

Claims 1 and 3-10 were rejected under 35 U.S.C. 102(e) as being anticipated by Hohmann. Claim 1 recites, “said hearing device applied to an individual, said sensing unit controlling change over from said one desired to said at least one second desired operating status whenever instability of said feedback loop is sensed, said instability being willingly established by said individual at a desired moment and removed by said individual at a second desired moment so as to control said change over by the willingly applied instability during the time span between said second and said first moment.” Hohmann does not teach controlling change over from one desired to a second desired operating status whenever instability of a feedback loop is sensed, *said instability being willingly established by an individual at a desired moment*

and removed by said individual at a second desired moment so as to control the change over by the willingly applied instability during the time span between said second and said first moment. Hohmann teaches detecting oscillations due to feedback and automatically activating a notch filter to eliminate the oscillations (6:22-41). Hohmann does not teach or suggest that the oscillations are willingly established by an individual, as recited in claim 1. Moreover, the oscillations are not willingly...removed by said individual at a second desired moment. Hohmann's oscillations are automatically eliminated and, therefore, are not willingly removed *by said individual* at a second desired moment, as required by claim 1. The instable status of claim 1 is started and stopped by the individual just to establish change over from one desired stable operating status to another, such as from an ON status to an OFF status. Applicant submits that claim 1 is not anticipated by and is allowable over Hohmann. Claims 3, 7, 9 and 10 depend from claim 1. Claims 4-6 and 8 have been canceled.

Claims 1, 2, 5 and 8-11 were rejected under 35 U.S.C. 102(e) as being anticipated by Harris. Claim 1 recites, “a sensing unit sensing operating stability and operating instability of an acoustical feedback loop... said sensing unit controlling change over from said one desired to said at least one second desired operating status whenever instability of said feedback loop is sensed.” Harris does not teach sensing operating stability and instability of an acoustical feedback loop and controlling change over from one operating status to another whenever instability of the feedback loop is sensed. Harris switches among a plurality of operational modes by detecting *input audio signal attenuations* (see Abstract). Input audio signal attenuations and stability of an acoustical feedback loop are entirely different phenomena.

Harris senses willingly established attenuation of acoustical signals impinging on its hearing device, as is established by applying a hand nearby the acoustical input of the device.

Nevertheless, sudden dampening of acoustical signals due to the placing of a hand near the input of the device may often be indistinguishable from otherwise sudden and unexpected attenuation of the signals, due to, e.g., the closing of a window between the acoustical source and the device. The technique as proposed by Harris may be highly critical with respect to detecting whether a sudden acoustical signal attenuation is willingly generated to cause a switching operation, or results from a natural acoustical source behavior (which should not lead to switching).

According to the subject matter of claim 1, there is willingly established an undesired operating mode, namely an instable mode, as by applying a hand nearby the input of the device. Applying a hand nearby the input of the device causes a respective impedance change along the feedback loop from the output of the hearing device back to its input. The subject matter of claim 1 exploits a mode of the hearing device *which will not occur in normal hearing situations*, so that problems associated with the Harris technique will not occur.

For the reasons discussed above, applicant submits that Harris does not anticipate claim 1 and that claim 1 is allowable over Harris. Claims 2, 9 and 10 depend from claim 1. Claims 5, 8 and 11 have been canceled.

New claims 12 and 13 have been added. Claim 12 recites at least the following steps which are not taught by the prior art of record, “willingly establishing, by the individual, an instable operating mode of the hearing device; and changing a desired operating mode of the hearing device upon sensing the instable operating mode.” Claim 13 depends from claim 12.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

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Amendment dated January 14, 2008  
Reply to Office Action dated September 12, 2007

If there are any additional fees resulting from this communication, please charge same to  
our Deposit Account No. 16-0820, our Order No. TSW-36162.

Respectfully submitted,  
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